

Research Article

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“People”, “Peoples” - How the May 3, 1791 Constitution framers defined what the People is and handled the duality of the Commonwealth of the Two Nations

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Abstract: In the Commonwealth of the Two Nations, significant legal texts were implemented under the rule of King Stanislaw August, the most important being the Constitution of May 3, 1791, adopted during the Four-Year Sejm (1788-1792). Its framers faced numerous challenges, first, because then only nobles were considered as constituting the Republic, one was to define who should be considered as a member of the People, who could be elected deputy to the Sejm, and at which condition. Second, since the 1569 Union of Lublin the Commonwealth is made of two distinct states: Poland (the Crown) and the Grand-Duchy of Lithuania, drafters had to handle Lithuanian statehood in a Constitution, which was primarily seen as a way to enhance unification of the two nations. Third, the Grand-Duchy of Lithuania having its own legislation, enclosed in the Lithuanian statute, (adopted in 1529, followed with a Second Statute in 1566, and a Third Statute in 1588), the question of its maintaining or not too had to be taken into consideration by framers. We hope that considering how these different issues were handled will shed a new light on the permanence of Lithuanian laws and political tradition in the May 3 Constitution.

Keywords: Commonwealth of the Two Nations; May 3 1791 Constitution; voting rights

1 Introduction

Under the rule of King Stanislaw August, significant reforms took place in the Commonwealth of the Two Nations, a “*republica mixta*”, showing monarchy, aristocracy and democracy features¹. During the Four-Year Sejm (1788-1792) important legal acts were adopted, the most important being the Constitution of May 3 1791. For its drafters one of the most uneasy tasks to deal with was to define who was a member of the People. Indeed, in the second half of the 18th century, the People took more and more place in political thought among Enlightenment thinkers. In the Commonwealth, where only nobles were considered as constituting the Republic, the commoners being supposed not to take part to politics, the question was all the more sensible. Moreover, a problem came from the dual nature of the Commonwealth, made of two distinct states, Poland (the Crown) and the Grand-Duchy of Lithuania, created in 1569 with the Union of Lublin. Within the Commonwealth Lithuania had been successful in maintaining its statehood independence: a separate territory, its own administration, judiciary and army, and a separate Treasury to fund them. In 1773 an education institution common to the Crown and the Grand-Duchy, the Commission of National Education (*Komisja Edukacji Narodowej* - held the first of this kind in history), was founded, Poland and Lithuania had each their

¹ Kiaupa Z., Lietuvos istorija, trumpasis amžius (1733-1795 M.), Baltų lankų, Vilnius, 2012, VII tomas, I dalis, p. 58.

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own department within the Commission². Maintaining this separateness while coping with a modernization of the whole state was a challenge for Lithuanian envoys seating at the Sejm. Finally, once the People was defined, it was necessary to determine who could have the voting rights, who could candidate to be an envoy of the sejmik, and under which conditions.

To examine these issues, we will take into consideration the works of some of the most prominent thinkers of the Commonwealth of the last quarter of the 18th c., as well as the proposals made by French thinkers to reform the regime. Innovations implemented in contemporary parliamentary states will also be taken into consideration. Then the Constitution will be examined to see which conceptions have been retained. To get a broader view we will have recourse to diverse historiographies (Polish, Lithuanian, American, British and French). In so doing, we hope that this study will shed a new light on political ideas history in the Commonwealth of the two nations in the Age of Enlightenment. We will hereafter consider: I) Two nations in search of a common future, II). Voting and representation rights.

2 Two nations in search of a common future

2.1 Defining the nature of People

The last decades of 18th c. witnessed a complete reassessment of the relationship between rulers and ruled³. In France, with the progress of Enlightenment ideas, the meaning of the word "People" ("le peuple") changed. If in 1765, the *Encyclopédie*⁴ defined "People" as peasants and workers, who are "the most numerous and the most necessary part of the nation"⁵, in 1789 in the abbot of Sieyès's (1748–1836) famous pamphlet *What is the Third Estate? (Qu'est-ce que le tiers-Etat?)* "people" is defined as all those, who are not members of the aristocracy. Such a conception was implemented into the 26 august 1789 *Declaration of the Rights of Man and of the Citizen (Déclaration des droits de l'homme et du citoyen)*. Indeed, the first article stresses on that: "Men are born and remain free and equal in rights. Social distinctions can be founded only on the common good"⁶, and the third one: "The principle of any sovereignty resides essentially in the Nation. No body, no individual can exert authority which does not emanate expressly from it"⁷.

Simultaneously to France, such reflection about People took place in the Commonwealth, where it even was one of the most recurrent words in political works. The Republic of the Two Nations, also called the "noble Republic", was made of "Polish People" ("narod polski"), which encompassed only the members of the szlachta, who defined themselves as the "Free People" ("wolny narod") within the Republic⁸. Moreover, this nation made of nobles identified itself with the State, contrary to Western countries (namely France), where the State was rather conceived as an abstract entity standing above the citizens. "Of what does the republic consist, if not of us ourselves?" asked Andrzej Zamoyski in the middle of the century⁹.

2 Šmigelskytė-Stukienė R., 1773 m. švietimo sistemos reforma. Edukacinė komisija (chapter). Šmigelskytė-Stukienė R., Brusokas E., Glemža L., Jurgaitis R., Rakutis V., Modernios administracijos tapsmas Lietuvoje : Valstybės institucijų raida 1764-1794 metais, Lietuvos istorijos instituto leidykla, Vilnius, 2014, p. 158-160. Equally a Cadets school, the Warsaw Cadets school (founded in 1765) was conceived to educate Commonwealth future army officers as well as future State civil servants. See: Parent A., Prancūzų karybos įtaka Liunevilio ir Varšuvos kadetų mokyklose Lietuvos Didžiosios Kunigaikštystės bajorams, Karo Archyvas, 2014, t. XXIX. p. 25.

3 Butterwick-Pawlikowski R., „Król z narodem, naród z królem”. Porównanie Stanisława Augusta Poniatowskiego i Ludwika XVI w latach 1788-1792, Wiek Oświecenia, 2000, t. 16, p. 115.

4 Diderot D., Le Rond d'Alembert J., Encyclopédie ou dictionnaire raisonné des sciences, des arts et des métiers, chez Samuel Faulche et compagnie, Neufchâtel, 1765, vol. 12, p. 475.

5 « [...] la partie la plus nombreuse et la plus nécessaire de la nation ». See: Diderot D., Le Rond d'Alembert J., op. cit., p. 475.

6 « Les hommes naissent et demeurent libres et égaux en droits. Les distinctions sociales ne peuvent être fondées que sur l'utilité commune ».

7 « Le principe de toute souveraineté réside essentiellement dans la Nation. Nul corps, nul individu ne peut exercer d'autorité qui n'en émane expressément ».

8 Butterwick-Pawlikowski, R. op. cit., p. 117; Butterwick-Pawlikowski R., Koncepcja narodu w polskim dyskusje końca XVIII wieku. Rozważania nad Konstytucją 3 maj, O ziemie naszą, nie waszą (pod redakcją Łukasza Adamskiego), Centrum Polsko-Rosyjskiego Dialogu i Porozumienia, Warszawa, 2017, p. 138, 140; Grześkowiak-Krwawicz A., Obywatel a państwo w polskiej myśli politycznej XVIII wieku, zarys problematyki, Civitas, Warszawa, 2001, n. 5, p. 251.

9 Grześkowiak-Krwawicz A., Queen Liberty: The concept of Freedom in the Polish-Lithuanian Commonwealth, Brill, Leiden-Boston, 2012, p. 8.

If we have a glance at French philosophes' recommendations to reform the Republic, we observe there is no clear description of what the People should be made of. If Rousseau in his *Discourse on the Origin and Basis of Inequality Among Men*¹⁰ had emphasized on the innate freedom of man, and in his *On the Social Contract*¹¹ wrote that the community of citizens encompasses only those, who want to be member of it¹², nevertheless, in his *Considerations on the Government of Poland*¹³, written for Bar confederates, the author explains that the serfs (who formed the greatest part of the inhabitants of the Republic), only after a long process he exposes, will be entitled to civil rights. Mably¹⁴, in his own advice to Confederates, also recommended a gradual emancipation of serfs¹⁵.

Looking at the thinkers in the Commonwealth, we observe that Franciszek Salezy Jezierski¹⁶, when in 1789 translating the above-mentioned pamphlet of abbot of Sieyès's¹⁷ into Polish, translated the term "Third Estate" ("Tiers-Etat") into "common people" ("pospólstwo")¹⁸. For him, the People is composed of hard-working peoples as well as impoverished aristocracy, compelled to work¹⁹. And since such people create the wealth of the country, they deserve to be the most prominent and constitute the nation. Later on in his "Selected words collected in alphabetic order and explained with pertinent remarks" (*Niektóre wyrazy porządkiem abecadła zebrane*, Warszawa, 1791) wrote that People is "a union of individuals having a common language and habits, having a legislation common to all citizens"²⁰. Another thinker, Adam Rzewuski²¹, in his "Thoughts on Republican Government" (*O formie rządu republikańskiego myśli*, Warszawa, 1790), asserts a noble can't be deprived of his rights because of his poverty²². In fact, generally speaking, thinkers were reluctant to give political rights to peasants, giving them civil rights and property rights was already a significant progress²³. Karp saw otherwise²⁴, for him the People was essentially made of peasantry: "Indeed, because the People, made of peasants, is the greatest and most numerous part of the Nation, in fact, that is the Nation itself, in which lies the might, strength, activity, resources of any country"²⁵. We may here observe that Karp, an enthusiastic follower of Rousseau, has a conception of People close to that of *Social Contract* and *Discourse on the Origin of Inequality*, whereas Rzewuski has one favorable to petty nobility, which reminds that of Rousseau in his *Considerations* (one has to remember that these Considerations were written for the nobles of Bar Confederacy). As often with Rousseau, his ideas are reused to quite different ends.

10 Rousseau J.-J., *Discours sur l'origine et les fondements de l'inégalité parmi les hommes*, chez Marc-Michel Rey, Amsterdam, 1754.

11 Rousseau J.-J., *Du contrat social*, chez Marc-Michel Rey, Amsterdam, 1762.

12 Parent A., Švietimo laikų prancūzų mąstytojų įtaka tautos sampratai 1791 m. gegužės 3-iosios konstitucijoje, *Parlamento studijos*, mokslo darbai, 2013, n. 15, p. 110–133.

13 Rousseau, J.-J., *Considérations sur le gouvernement de Pologne, et sur sa réformation rojetée* (1772), Rousseau J.-R., *Œuvres complètes*, t. III, Paris, 1964.

14 Gabriel Bonnot de Mably (1709-1785), philosophe. Wrote: *Parallèle des Romains et des Français* (1740), *Droit public de l'Europe fondé sur les traités* (1746-1748), *Les entretiens de Phocion* (1763), *Doutes proposés aux philosophes économistes sur l'ordre naturel et essentiel des sociétés politiques* (1788), *Des droits et des devoirs du citoyen* (1789). At the request of Bar confederate M. Wielhorski, wrote: *Du gouvernement et des loix de la Pologne*.

15 Mably G., *Du gouvernement et des loix de la Pologne*, *Œuvres complètes de l'abbé de Mably*, chez la veuve de J. B. Delamolliere et Falque, Lyon, 1792, t. VIII, p. 178.

16 Franciszek Salezy Jezierski (1740–1791), priest, political writer. See: *Wielka encyklopedia powszechna ilustrowana*, Warszawa Druk, Warszawa, 1903, t. 31–32, p. 923–928.

17 Sieyès E., *Qu'est-ce que le tiers état ?* 1789.

18 Jezierski Fr., *Duch nieboszczeni Bastylji*, Dufour, Varsovie, 1789.

19 Leśnodorski B., *Institutions polonaises au siècle des lumières*, Państwowe wydawnictwo naukowe, Varsovie, 1962, p. 30.

20 Parent A., *Prancūzai apieją Tautų Respublikos pertvarkymę Stanislovo Augusto valdymo laikotarpiu (1764-1795 m.)*, daktaro disertacija, Vilniaus Universitetas – Lietuvos Istorijos Institutas, Vilnius, 2018, p. 124.

21 Adam Rzewuski (1760–1825), deputy at the Sejm, writer, ambassador of the Commonwealth of the Two Nations in Denmark. *Žr. Zielinska S., Adam Rzewuski (1760–1825), Polski słownik biograficzny*. 1992, t. 34 / 1, p. 94–98.

22 Rzewuski A., *O formie rządu republikańskiego myśli*, wyd. Michał Gröll, Warszawa, 1790, t. 1, p. 36–37.

23 Lis R., *W poszukiwaniu prawdziwej Rzeczypospolitej*, Wydawnictwo WAM, Kraków, 2015, p. 234.

24 Mauricy Karp (1749-1817), political thinker, was envoy of Żemaitija region at Four-Year Sejm. Took part to 1794 insurrection, in 1797 joined the Lithuanian Commission of Education. See: Strazdunaitė R., Karpis Mauricijus Pranciškus, *Visuotinė lietuvių enciklopedija*, t. IX, Vilnius, 2006, p. 491.

25 M. F. K. P. Ž. [Mauricy Franciszek karp], *Pytanie, czy do doskonalosci konstytucji politycznej panstwa naszego potrzeba, aby gmin miał uczestek w prawodawstwie [...]*, Warszawa, 1791, Woliński J., Zakład im. Ossolińskich, *Materiały do dziejów Sejmu Czteroletniego*, 1955, t. 1, p. 552. Quoted by: Vilūnas D., *Lietuvos Didžiosios Kunigaikštystės nacionalizmo filosofijos pradmenys XVIII a. pabaigoje, XVIII amžiaus studijos*, Vilnius, 2016, t. 3, *Lietuvos Didžioji Kunigaikštystė. Iššūkiai. Laimėjimai*. Netektys, p. 74.

Looking now at the May 3 Constitution, we witness that the principle of the sovereignty of People is mentioned in article 5 ("Form of Government, or the Definition of public powers"): "All power in civil society should be derived from the will of the people [...], and in article 11 ("National Force, or the Army"): "The nation bears a duty to its own defense from attack and for the safeguarding of its integrity". Nonetheless having a closer look at the constitution, we may observe that the word "People" has two meanings. In the preamble and the articles 2²⁶, 3²⁷ and 4²⁸, the term used does not mean any more "a republic of nobles" but a new People, made of nobles, bourgeois and peasants²⁹. Besides, in the above-mentioned article 11 about national force, all the social classes are encompassed. Nevertheless, in article 6 ("The Diet, or the Legislative Power"): nobles are called "People" and "citizens". Anyway, whatever the sense to give to "People" in the Constitution, ultimately, as historian Liudas Glemža has observed, the Constitution of May 3 (contrary to the French Constitution of September 3, 1791) has not suppressed inequality among people, neither class privileges³⁰.

2.2 Conciliating Lithuanian specificity with Commonwealth regime modernization

In framing the constitution, one of the main difficulties was to define the relationship between the Crown and the Grand-Duchy³¹. With the Act of the Union of Lublin (1569), Poland and Lithuania had common institutions (the choice of the Sovereign and the Sejm), but each of them had its own law and executive power³². Ever since Lithuania had managed to maintain its specific character, if a legal and cultural unification process had been in progress, there was no, as have observed Zigmantas Kiaupa, ethnical or political polonization³³. In the first project prepared by the *Deputation for the Government Statute* (*Deputacja do Formy Rzędu*), relations between Poland and Lithuania were formulated this way: "the Republic of Poland and the Grand-Duchy of Lithuania always will be a federal state according the act of Union, which with all its contents is confirmed by the constitution". Nevertheless, in the redaction of the last project, framed by Kollataj, nothing was written about relations between the Crown and Lithuania³⁴. Another project, inspired by the king, rather supported a unitary state form³⁵.

Thanks to the marshal of Lithuanian confederation Kazimierz Nestor Sapiega³⁶, a compromise was reached, according which the model of a federal republic will be maintained. It was decided that every third Sejm will be held in Grodno and that there will be held Lithuanian territories' sejmiks sessions, during which Lithuanian senators and deputies will consider draft laws affecting Lithuania, having the possibility to adopt their own positions before plenary sessions. A compromise was reached 17 June 1791, when a common police commission was set up, at the condition that one third of the members will be from the Duchy³⁷.

²⁶ Article 2 : „Nobility, or the Equestrian Order“.

²⁷ Article 3 : „Towns and citizens“.

²⁸ Article 4 : „Peasants and villagers“.

²⁹ Raila E., Apie 1791 gegužės 3-iosios konstituciją. Aidai, Vilnius, 2007, p. 53, 60.

³⁰ Glemža L., Pilielinės visomenės užuomagos 1791 gegužės 3 d. Konstitucijoje. Mūsų konstitucionalizmo raida, sudarė Aigustė Vykantė Bartkutė, Andrius Vaišnys, Valstybės žinios, Vilnius, 2003, p. 20-36. Quoted by: Čepaitienė R., Gegužės 3-osio konstitucija lietuvių istorinėje atmintyje, XVIII a. studijos, Lietuvos Didžioji Kunigaikštystė : tarp tradicijų ir naujovių, Vilnius, 2014, t. 1, sud. R. Šmigelskytė-Stukienė, p. 83.

³¹ Remind here that the Commonwealth, in addition to Poles and Lithuanian, was also inhabited by German, Ruthenian, Karaims, Armenian, Scots, Tatars and Jews. Ethnically and religiously, the Commonwealth was the most diverse country in Europe. See: Grześkowiak-Krwawicz A., Queen Liberty: The concept of Freedom in the Polish-Lithuanian Commonwealth, Brill, Leiden-Boston, 2012, p. 9.

³² Kiaupa Z., Lietuvos istorija, trumpasis amžius (1733-1795 M.), Baltų lankų, Vilnius, 2012, VII tomas, I dalis, p. 60.

³³ Kiaupa A., O trešči zjawiska „lituanizacji“ życia społeczno-politycznego Litwy w XVIII w., Rzeczpospolita-państwem wielu narodowości i wyzwani, XVI-XVIII wiek / pod red. Tomasza Ciesielskiego i Anny Filipczak-Kocur, Wydaw. DiG, Warszawa-Opole, 2008, p. 163. Quoted by: Zakrzewski A., Dyskusyjne epizody unii Korony z Litwą, 1385-1793, Prawo i Polityka, 2009, nr. 1 (1), p. 20.

³⁴ Zakrzewski, A., op. cit., p. 20.

³⁵ Butterwick-Pawlikowski R., Koncepcja narodu w polskim dyskusje końca XVIII wieku. Rozważania nad Konstytucją 3 maj, O ziemię naszą, nie wasza (pod redakcją Łukasza Adamskiego), Centrum Polsko-Rosyjskiego Dialogu i Porozumienia, Warszawa, 2017, p. 147.

³⁶ Kazimierz Nestor Sapiega (1757-1798). See: Matulevičius A., Kazimierz Nestor Sapiega (1757-1798), Visuotinė Lietuvos enciklopedija, Mokslo ir enciklopedijų centras, Vilnius, 2012, t. XXI, p. 124.

³⁷ Šapoka A., Lietuva reformų seimo metu. Iki 1791 m. gegužės 3 d. konstitucijos, Raštai, Vilnius, 2008, t. 2, p. 34.

In wishing to strengthen the Republic in its two components, concessions were unavoidable, especially knowing that conservative nobles were not pleased with the unitarian feature of the constitution³⁸, the delimitation of their freedoms and the strengthening of the prerogatives of the king. In the opinion of Lithuanian historian Adolfas Šapoka, the reasons of the opposition of Lithuanian deputies against the Constitution were definitely the same as those of the Polish ones. And since the king needed the widest possible base in the Sejm to support his reforms, he could not turn a deaf ear to Lithuanian envoys expectations. That's why he supported the demands submitted 20 October 1791 by Sapiega to the Sejm as a draft bill named Reciprocal Guarantee of the Two Nations (*Zaręczenie Wzajemne Obojga Narodów*)³⁹. According this Guarantee, the Grand Duchy of Lithuania and the Crown will have an equal number of members in central authorities. Moreover, Lithuania and the Crown were granted an equal number of members in the War and Treasures commissions. In the Police Commission, 1/3 of the commissaries would be Lithuanian and 2/3 would be Polish. Also, Lithuania would be granted as many ministers and civil servants, with the same titles and competences, as those of the Crown. War and Treasury commissions, successively and for the same time will be headed by Lithuanian and Crown envoys, and the Lithuanian Treasury will stay in the Grand Duchy of Lithuania. The Lithuanian citizens' litigations with the Treasury would be handled in a separate Lithuanian Treasury court. This act also had a preamble, in which it was confirmed that the Republic was a dual state, based on the Union of Lublin. It is noteworthy that in France, the redactors of the newspaper *Gazette nationale* translated the Reciprocal Guarantee into French and reproduced it integrally, possibly because they saw it as a successful and exemplary constitutional text to follow⁴⁰.

In his work redacted while he was in emigration, *On the Enactment and the Fall of the Polish Constitution of 3 May 1791* (*O ustanowieniu i upadku Konstytucji polskiej 3 Maja 1791 roku*), Kollontaj⁴¹ wrote about the *Reciprocal Guarantee*: "The noble or rather brotherly sacrifice of the Crown provinces facilitated everything. The holy vows of the Union between Lithuania and the Crown were renewed, and the memorable resolution was passed on the grounds that all government agendas were to be composed half of Lithuanian and half of Crown citizens, although Lithuania does not contribute even a third part of the population or the wealth of the Crown"⁴².

Indeed, according to the Polish law historian Juliusz Bardach, this *Reciprocal Guarantee* crowned the endeavors of Lithuanian envoys in the Four-Year Sejm: "The political wit and cautiousness of the Polish and Lithuanian parliamentarians, capable of combining the struggle for external sovereignty and the reformation of the State organization with the tradition of the Union and the preservation of the autonomy of the Grand-Duchy, should be highly valued"⁴³. On the whole the Reciprocal Guarantee confirmed the duality of the Polish-Lithuanian State⁴⁴ and the will of Lithuanians envoys to maintain the Statehood of the Great-Duchy, without making too many concessions⁴⁵. It also shows that Lithuanian nobility was not completely polonized, as it has sometimes been written⁴⁶. At last, According Lithuanian constitutional law historian Vaidotas Vaičintis, because Reciprocal Guarantee, in which Poland and Lithuania are equal, is included into the Constitution, the latter may be held as part of Lithuanian constitutional history⁴⁷.

Ultimately, Lithuanian nobility was satisfied with the constitution. As we see with the sejmik of Szawle (Lithuanian: *Šauliai*) in the Grand-Duchy, where the nobles swore to defend the constitution: "All of us being caused with one spirit to laud the Law on Government passed on the third day of May last year [. . .], upon which alone have depended the

38 As soon as 1766 Stanislas August had made an unsuccessful attempt to unify the Crown and the Grand-Duchy commissions. See: Kiaupa Z., *Lietuvos istorija, trumpasis amžius (1733-1795 M.)*, Baltų lankų, Vilnius, 2012, VII tomas, I dalis, p. 77.

39 Bardach J., *Konstytucja 3 maja a unia polsko-litewska*, *Przegląd Historyczny*, 1991, t. 82, z. 3-4, p. 383-395; Bardach J., *Konstytucja 3 maja a Zaręczenie Wzajemne Obojga Narodów 1791 roku*, *Studia Juridica*, 1992, t. XXIV.

40 *Gazette nationale, ou le moniteur universel*, mercredi 16 novembre 1791, Pologne, de Varsovie, le 26 octobre, p. 1333.

41 Hugo Kołłątaj (1750–1812), priest, political witer, vice-chancellor of Poland, member of the Commission of Education. During the Four-Year Sejm, lead the republican radical wing. He was one of the drafters of May 3, 1791 Constitution.

42 Kołłątaj H., *O ustanowieniu i upadku konstytucji polskiej 3 maja 1791 roku z 1793*, Mrówka, Lwów, 1882, p. 324. Quoted by: Bardach J., *Konstytucja 3 maja a Zaręczenie Wzajemne Obojga Narodów 1791 roku*, *Studia Juridica*, 1992, t. XXIV, p. 187.

43 Bardach, J. *ibid.*, p. 189.

44 Butterwick-Pawlikowski R., *op. cit.*, p. 147.

45 Malec J., *Szkice z dziejów federalizmu i myśli federalistycznej w nowożytnej Europie*, Wydaw. Uniw. Jagiellońskiego, Kraków 1999, wyd. II: 2003, p. 137-138.

46 Kiaupa Z., *op. cit.* p. 55, 71.

47 It is clearly stated in the 28 April 2011 Lithuanian Sejm resolution „Dėl Gegužės trečiosios konstitucijos su Abiejų Tautų Tarpusavio Įžadu 220-ųjų metinių“, which proclaims that : "the first written constitution in Europe" is "May 3 Constitution and Reciprocal Agreement". See: Vaičaitis V., 1791 m. gegužės 3-iosios konstitucija ir Lietuvos konstitucingumo tradicija, *Parlamento studijos*, t. 14, 2013, p. 89.

political existence, external independence, and internal liberty of our nation, a law made through the salutary design of the wise king and no less by the common will (*wspólna wola*) and participation of all estates assembled at the sejm, we have recognised it as a work of happiness, and reckoned it as a means to the strengthening of the Fatherland, so for the assurance of the obedience of all persons to this law, we have solemnly sworn to defend it with all our strength, from our lives and properties.” It is worth observing that if only 22 per cent of the Polish sejms swore an oath to the Constitution, they were 82 in the Grand-Duchy. Amazingly, it seems that Lithuanians looked less suspicious of royal power than their Polish counterparts⁴⁸.

3 Voting and representation rights

In any republican regime the definition of the People is correlated with the necessity to define who is entitled to vote, and who may be elected as a representative. For Enlightenment thinkers, representation was a recurrent issue. For instance, in the tom XIV of the *Encyclopédie* (released in 1765), the article “représentants” (“representatives”) states that in a modern state the General Will may be consulted only by representation. And since all the classes of the Nations have to be represented, citizens must frequently choose their envoys, to whom they will give an imperative mandate. The article also stresses on that citizenship is correlated with property⁴⁹. During the Four Year Sejm great attention was given to the reform of sejms⁵⁰. Constitution framers had to define under which conditions the right of vote and to be chosen as an envoy could be granted, as well as which kind of mandate would be applied: will it be a “mandatory mandate” (that is, when a representative is compelled to act according the instructions given to him by those who vote for him), or a “representative mandate” (that is, when the representative represents People as a whole, and the mandate is free and irrevocable)?

3.1 The suffrage

In the 18th century, as we saw with the above-mentioned *Encyclopédie* article, the idea of representation was usually entangled with the property owned. If we look at what French philosophes said about census suffrage in their advices to Bar Confederates, we read that Mably considered that an envoy has to be noble (but only one noble from a family can apply), have an impeccable reputation, and be aged of at least 30 years old. Moreover, he could not take part in two sessions successively. Mably stresses on the necessity that “every envoy must possess a certain quantity of land in his palatinate, and will not work as a servant in another noble man house, or in his lands”⁵¹. His idea is, that landowners feel more concerned in public affairs because they can’t take their richness abroad. Also, because a man, even noble, who works for another man is not free, he can’t be entitled to participate to votes in a free men assembly. As for Pyrrhus de Varille⁵², he asserts that the capacity to apply as a member of a sejmik must depend on his wealth level. Like Mably, he thinks that only nobles possessing land should take part in the sejms⁵³.

⁴⁸ Biblioteka Czarotoryskich, Cracow 879, 799–800, quoted by: Szczygielski W., Referendum trzeciomajowe. Sejmiki lutowe 1792 roku, Wydawn. Uniwersytetu Łódzkiego, Łódź, 1994, p. 294–297, 323, 380–382; Butterwick-Pawlikowski R., Political Discourses of the Polish Revolution 1788–92, English Historical Review, June 2005, vol. CXX No. 487, p. 728. Translation made by R. Butterwick-Pawlikowski.

⁴⁹ Goyard-Fabre S., L'idée de représentation à l'époque de la Révolution française, Etudes françaises, automne 1989, volume 25, numéro 2–3, p. 79.

⁵⁰ Leśnodorski B., Dzieło Sejmu Czteroletniego (1788–1792), Studium historyczno-prawne, Wrocław, 1951, p. 246.

⁵¹ Mably G., Du gouvernement et des loix de la Pologne, Œuvres complètes de l'abbé de Mably, chez veuve de J. B. Delamolliere et Falque, Lyon, 1792, t. VIII, p. 19.

⁵² César-Félicité Pyrrhus de Varille (1708–1800). In 1755 arrived with French Ambassador de Broglie to Poland, to work as a preceptor at Sanguszko house. Became acquainted with Stanislas Konarski, Ignacy Krasinski. He published: *Lettre sur l'éducation d'un seigneur Polonais à Son Altesse Monseigneur le Prince Jean Sanguszko* (1757); *Compendium politicum* (1760–1761); *Lettres historiques et politiques à son Altesse le Prince Jean Sanguszko sur les interrègnes de Pologne* (1764); *Réflexions politiques sur la Pologne* (1765). See: Parent A., Prancūzai abiejų Tautų Respublikos pertvarkymo Stanislovo Augusto valdymo laikotarpiu (1764–1795 m.), daktaro disertacija, Vilniaus Universitetas – Lietuvos Istorijos Institutas, Vilnius, 2018, p. 255–257.

⁵³ Pyrrhus de Varille C.-F., *Lettres historiques et politiques à son altesse Le Prince Jean Sanguszko sur les Interrègnes de Pologne depuis les établissements des Pacta Conventa ou l'Election libre des Roys, Lubartow-Varsovie*, 1764, p. 64–65.

Besides the advice of French philosophes, Commonwealth reformers had the faculty to look at contemporary parliamentary regimes to find some examples to follow. In England, in 1711, some specific property requirements for parliament members were put into force, higher than those required for voters. Such a decision aimed at favouring landowners (« the landed interest »). Entrepreneurs and financiers (« the moneyed interest ») could anyway purchase land⁵⁴. As for the United States⁵⁵, its Constitution (1787) provides that: “No Person shall be a Representative who shall not have attained to the Age of twenty five Years, and been seven years a Citizen of the United States, and who shall not, when elected, be an Inhabitant of that State in which he shall be chosen (Art. I, Sec. 2, cl. 2). Such a provision is quite wide. Nevertheless, it has to be remarked that there also existed a project according which legislative power would have defined property conditions for both Houses (Senate and House of Representatives). But for the Constitution framers, empowering the legislative body with such prerogative would have jeopardied the very nature of the regime. Also, if in principle the framers agreed on the relevancy to require a certain amount of property to be a representative, they could not agree on a level that could suit to the rather poor agricultural states in the west, and the opulent trading states of the East coast. That is to say, that the absence of conditions to be representative was more the result of wealth disparity between states than philosophical conceptions⁵⁶.

In revolutionary France, in 1789 the *Assemblée constituante* had decided that only those who had a land property and paid a fee (*un marc d'argent*) could be elected to the *Assemblée nationale*⁵⁷. Indeed, if the framers considered that voting rights had to be granted to any man, they considered that an elected office, because it was held in the name of society, could be granted only to those supposed the most competent. Nevertheless, because of the radicalization of the Revolution the fee requirement was abandoned in 1791 and replaced with a two-degrees election system. According this system, the voters would gather in primary assemblies (*assemblées primaires*) in their *canton*, where they would vote to choose the second-degree voters. Then, these second-degree voters would gather in the *département* (district) to elect the representatives (*les représentants*). Also, in 1789, the *Assemblée constituante* established the fee for the second-degree voters, who had to pay a tax equal to ten days of work. In 1791 the fee and property requirements were abolished for the representatives, but only citizens paying the equivalent of forty days of work could be second-degree voters. In 1792, fees were abolished, but the indirect vote system was maintained. After the coming-back of Thermidorians in 1794, a fee for the second-degree was implemented⁵⁸.

In Poland-Lithuania, thinkers thought about a tax-based suffrage based on land property. For instance, according Kollataj, poor people, not only because they are not enlightened, but also because they have no financial independence, may only subscribe to rich peoples' political ideas. So, because they have no financial independence nor their own political ideas, they can't be granted voting rights. That is to say, such rights should depend on their wealth level⁵⁹. These ideas are quite close from those of Mably, Pyrrhus de Varille and the physiocrats. Besides, Kollataj shares physiocrats' opinion that the soil is the only source of richness. For this reason, he thinks that the Republic should become a nation of landowners⁶⁰, and petty nobles should be deprived of their political rights. Kollataj was one of the most progressive thinkers in the Republic, and his lack of support to equality between lords may appear strange. Nevertheless, it suits well with physiocratic ideas, according which there is no innate equality among people (differently from Enlightenment philosophers, who usually affirmed, that peoples were equal)⁶¹. As for the bourgeois, Kollataj agreed they could have deputies, and he proposed a bicameral system in which they would sit in a lower house, the nobles sitting in an upper

54 Manin B., *Principes du gouvernement représentatif*, Flammarion, Paris, 1996, p. 129.

55 Commonwealth thinkers were informed of American Revolution. See for instance: Siarczyński Fr., *Historia polityczna rewolucji amerykańskiej terazniejszej, przez sławnego Rainala w francuskim napisana języku, a teraz na polski przełożona*, Warszawa, 1783. Quoted by :Vilūnas D. op. cit., p. 70.

56 Manin B., op. cit., p. 137, 140-141.

57 P. Guéniffey estimates that the number of citizens that could afford to pay the fee represented 1 % of the total population. See: Guéniffey P., *Le nombre et la raison : la Révolution française et les élections*, Editions de l'Ecole des Hautes Etudes en Sciences Sociales, Paris, 1993. Quoted by Manin B., op. cit., p. 132.

58 Manin B., op. cit., Paris, p. 132-134.

59 Kołłataj H., *Listy anonima, i Prawo polityczne narodu polskiego [1788–1790]*. Opracowali: B. Leśnodorski i H. Wereszycka. Krakowie Państwowe Wydawn. Naukowe, Kraków, 1954, vol. 1–2, p. 292-296.

60 Butterwick-Pawlikowski R., *Koncepcja narodu w polskim dyskusie końca XVIII wieku. Rozważania nad Konstytucją 3 maj, O ziemię naszą, nie waszą* (pod redakcją Łukasza Adamskiego), Centrum Polsko-Rosyjskiego Dialogu i Porozumienia, Warszawa, 2017, p. 145.

61 Viguerie J. de, *Histoire et dictionnaire du temps des lumières, 1715-1789*, Robert Laffont, Paris, 2007, p. 478.

house, on the example of British system (House of Commons and House of Lords). Nevertheless, he did not require political rights for bourgeois equal to those of nobles, and didn't want them to have land.

Another thinker, Staszic⁶², like Kollataj promoted the conception of a People made of owners. And for him the free use of one's property is a condition of liberty⁶³. Nonetheless Staszic being a member of the bourgeoisie with little inclination to a Republic made of nobles, he opposed the land-owning nobility and privileges, and demanded for the bourgeois half of the seats in the Sejm⁶⁴. In his work *Warnings for Poland (Przestrogi dla Polski, 1790)*, he recommended establishing a tax quota for voting rights according the amount of payed taxes, and not according land property or the amount of received rents. In his opinion, each voivodship had to choose its deputies according their paid taxes⁶⁵. As we see, with Kollontaj and Staszic the citizen-szlachcic is replaced by a citizen-owner⁶⁶. In 1793, Thaddeus Kościuszko would express the wish to grant political rights to any man who pays taxes to the State's treasure⁶⁷.

3.2 The Mandate

Generally speaking, imperative mandate was rejected because it deprived the representative from one's autonomy⁶⁸. Montesquieu himself condemned it, and he admired the British system, in which the idea took hold that deputies represent the whole kingdom, not their constituency⁶⁹. In the beginning of the 19th c. there were some attempts to introduce "pledges", that were quite like instructions, but without success⁷⁰. In America, during the colonial time and the first decade of Independence, instructions given to representatives were largely accepted⁷¹. When the First United States Congress discussed the *Bill of Rights* that should be add to the Constitution, some of its members proposed to include the right to give instructions to the representatives, but such a proposition was turned out. It was then decided that voters could give instructions if they wished so, but they would have no binding force. In revolutionary France, in 1789, the *Assemblée nationale* banned imperative mandate⁷². Later on, the Constitution of 1791 september 3 also forbade such mandate⁷³. At last, it has to be noticed that since 18th c., no representative government authorized such imperative mandate⁷⁴.

62 Stanisław Wawrzyniec Staszic (1755–1826), priest, political writer. See: Czepe M., Wojcik Zb., Stanisław Wawrzyniec Staszic, Polski słownik biograficzny, 2004, t. 42 / 4, z. 175, p. 540–551.

63 Lis R., W poszukiwaniu prawdziwej rzeczypospolitej, Wydawnictwo WAM, Kraków, 2015, p. 146.

64 Walicki A., The idea of nation in the main currents of political thought of the Polish enlightenment. Constitution and Reform in Eighteenth-Century Poland: The Constitution of 3 May 1791, Indiana university Press, Bloomington, 1998, p. 165.

65 Staszic S., Uwagi nad życiem Jana Zamoyskiego, wyd. Michał Gröll, Kraków, 1787, p. 19; Dany Ch., Les idées politiques et l'esprit public en Pologne à la fin du XVIII siècle : La Constitution du 3 Mai 1791, thèse pour le doctorat, Paris, 1901, p. 78; Grześkowiak-Krwawicz A., Deux libertés : l'ancienne et la nouvelle dans la pensée politique polonaise du XVIIIe siècle. Liberté : héritage du passé ou idée des lumières? Collegium colombinum, Kraków-Warszawa, 2003, p. 52; Grześkowiak-Krwawicz A., Koncepcja wolności w myśli politycznej Stanisława Staszica, Wiek Oświecenia, 2006, 22, p. 42–45.

66 Grześkowiak-Krwawicz A., Obywatel a państwo w polskiej myśli politycznej XVIII wieku, zarys problematyki, Civitas, Warszawa, 2001, n. 5, p. 249.

67 Kościuszko T., Memoriał o Polsce złożony przez Kosciuzke Lebrunowi, ministrowi spraw zagranicznych Francji, w Paryżu w 1793 r., Pisma Tadeusza Kościuszki, red. Henryk Mościcki, Państwowe Zakłady Wydawnictw Szkolnych, Warszawa, 1947, p. 74. Cited by: Vilūnas D., Lietuvos Didžiosios Kunigaikštystės nacionalizmo filosofijos pradmenys XVIII a. pabaigoje, XVIII amžiaus studijos, Vilnius, 2016, t. 3, Lietuvos Didžioji Kunigaikštystė. Iššūkiai. Laimėjimai. Netektys, p. 71.

68 Manin B., op. cit., 1996, Paris, p. 209.

69 Goyard-Fabre S., op. cit., p. 75-76. 5. Pôle J., The Gift of Government. Political Responsibility from the English Restoration to the American Independence, University of Georgia Press, Athens, 1983, p. 103; Langford P., Property and 'Virtual Representation' in Eighteenth-Century England, The Historical Journal, March 1988, vol. 31, n. 1, p. 87.

70 Bentham J., Constitutional Code [1822-1834], ed. F. Rosen, J. H. Burns, Clarendon Press, Oxford, 1983, vol. I, p. 26. Quoted by: Manin B., op. cit., p. 210.

71 Reid J., The Concept of Representation in the Age of the American Revolution, University of Chicago Press, Chicago, 1989, p. 100-102.

72 Manin B., op. cit., p. 211.

73 « Les représentants nommés dans les départements ne seront pas les représentants d'un département particulier, mais de la nation entière, et il ne pourra leur être donné aucun mandat », Chapitre premier: De l'assemblée nationale législative; Section III: Assemblées électorales. Nomination des représentants; Article 7.

74 Manin B., op. cit., p. 210.

If we now have a glance at French thinkers, who gave their advice on political reforms carried out in the Polish-Lithuanian Republic, we may observe that physiocrat Lemerrier de la Rivière⁷⁵, Mably⁷⁶ and Pyrrhus de Varille⁷⁷, supported the imperative mandate. Rousseau, though in principle opposed to representation⁷⁸, in his *Considérations* acknowledged its necessity because of the size of the republic. He believed that imperative mandate is necessary to a sound democracy⁷⁹ and will be an effective way to guaranty the will of the sejmiks⁸⁰. Looking at Commonwealth thinkers, Karp, who considered that only a szlachcic could be chosen as an envoy, because magnates are too corrupted⁸¹, firmly supported an imperative mandate⁸². As for Kollataj in his *Anonym letters (Listy anonima)*, and *Prawo polityczne narodu polskiego (Political right of the Polish People)*⁸³, he supported a representative mandate, Staszic⁸⁴ and Lobarszewski⁸⁵ shared such a point of view. So did the sovereign of the Republic, Stanislaw August, who was not convinced by Rousseau's recipes to reform the Commonwealth⁸⁶. In his opinion the envoys had to vote according their own convictions and not according the will of those who vote for them⁸⁷.

3.3 Suffrage and mandate in the May 3 Constitution

Before looking at the changes made during the Four Year Sejm with regards to representation, let us remind here, that the Sejm ordinarily met every two years, for a duration of six weeks, and legislated by consensus⁸⁸. Instructions given by sejmiks to their envoys to the Sejm were quite important in Commonwealth parliamentary life. They were

75 Pierre-Paul Le Mercier de la Rivière (1719 (1720 ?) - 1793 (1801?)). 1747–1757 was member of Paris Parlement. 1759–1764 m. was sent as an intendant to Iles du Vent. In 1767 his book *Ordre naturel et essentiel des sociétés politiques* was released, and in 1770: *L'intérêt général de l'Etat*. In the years 1771–1772 m. P. About Poland he wrote *L'intérêt commun des Polonais ou Mémoire sur les moyens de pacifier pour toujours les troubles actuels de la Pologne, en perfectionnant son gouvernement et conciliant ses véritables intérêts avec les véritables intérêts des autres peuples*, which was not published. In 1772 was released his *Lettre sur les économistes* (1772). See: Parent A., Prancūzai abiejų Tautų Respublikos pertvarkyme Stanislovo Augusto valdymo laikotarpiu (1764-1795 m.), daktaro disertacija, Vilniaus Universitetas – Lietuvos Istorijos Institutas, Vilnius, 2018, p. 253-254.

76 « Si une diétine antécomitale se séparait avant d'avoir élu ses nonces et dressé ses instructions [...] ». See : Mably G. de, op. cit., p. 32.

77 « Il s'agit dans nos Diétines du choix des Nonces, et de l'instruction que doit leur donner chaque Province sur ce qui concerne le bien de la Patrie, et son avantage particulier ». See : Pyrrhus de Varille C.-F., *Lettres historiques et politiques à son altesse Le Prince Jean Sanguszko sur les Interrègnes de Pologne depuis les établissements des Pacta Conventa ou l'Election libre des Roys, Lubartow-Varsovie, 1764*, p. 63.

78 Goyard-Fabre S., op. cit., p. 77.

79 Lis. R., op. cit. p. 309-310.

80 « Le second moyen est d'assujettir les représentants à suivre exactement leurs instructions et à rendre un compte sévère à leurs constituants de leur conduite à la Diète ». See : Rousseau, J.-J., *Considérations sur le gouvernement de Pologne, et sur sa réformation projetée* (1772), Rousseau J.-J., *Œuvres complètes*, t. III, Paris, 1964, p. 979.

81 Not only magnates were corrupted, and often acted for foreign powers, but they also exercised their influence on nobles of lesser rank and pursued their own interest to the detriment of the State. See: Kiaupa Z., *Lietuvos istorija, trumpasis amžius (1733-1795 M.)*, Baltų lankų, Vilnius, 2012, VII tomas, I dalis, p. 58-59.

82 M. Karp wrote on sejmiks in his work: *Obraz sejmików, czyli co to są sejmiki teraźniejsze nasze*, Dufour, Warszawa, 1791. See: Jurgaitis R., *Lietuvos Didžiosios Kunigaikštystės seimelių administracinės funkcijos 1764-1794 m.* (chapter), Šmigelskytė-Stukienė R., Brusokas E., Glemža L., Jurgaitis R., Rakutis V., *Modernios administracijos tapimas Lietuvoje : Valstybės institucijų raida 1764-1794 metais*, Lietuvos istorijos instituto leidykla, Vilnius, 2014, p. 495; Vilūnas D., *Lietuvos Didžiosios Kunigaikštystės nacionalizmo filosofijos pradmenys XVIII a. pabaigoje, XVIII amžiaus studijos*, Vilnius, 2016, t. 3, Lietuvos Didžioji Kunigaikštystė. Iššūkiai. Laimėjimai. Netektys, p. 71; Tunaitis S., *Apšvietos epochos socialinės ir politinės filosofijos metmenys*, Leidėjas „Kultūros, filosofijos ir meno institutas“, Vilnius, 2014, p. 71.

83 Kołłataj H., *Listy anonima, i Prawo polityczne narodu polskiego [1788–1790]*. Opracowali: B. Leśnodorski i H. Wereszycka. Krakowie Państwowe Wydawn. Naukowe, Kraków, 1954, vol. 1–2, p. 273, 332–333; vol. 2, p. 16, 30, 51–52.

84 Grześkowiak-Krwawicz A., *Obywatel a państwo w polskiej myśli politycznej XVIII wieku, zarys problematyki*, Civitas, Warszawa, 2001, n. 5, p. 252.

85 Lobarszewski I., *Zaszczyt wolności polskiej angielskiej wyrównyujący*, Warszawa, 1789, p. 195. See: Rafał Lis, op. cit., p. 309-310.

86 Butterwick-Pawlikowski R., „Król z narodem, naród z królem”. Porównanie Stanisława Augusta Poniatowskiego i Ludwika XVI w latach 1788-1792, *Wiek Oświecenia*, 2000, t. 16, p. 127.

87 « M Kicinski s'est fait beaucoup d'honneur par un discours où il a démontré que les instructions (ou mandats) doivent être seulement indicatives, et non pas impératives ». Letter of Stanislaw August to Mazzei, Varsovie, 26 mars 1791, *Bibliothèque polonaise de Paris*, 37, fol. 495. Quoted by: Parent A., op. cit., p. 49.

88 Butterwick-Pawlikowski R., *Political Discourses of the Polish Revolution 1788–92*, *English Historical Review*, June 2005, vol. CXX No. 487, p. 695.

mandatory⁸⁹ and envoys had to comply with them. But in the second half of the century, namely in 1788 and 1790 we observe the possibility granted to envoys to act in an autonomy way, to "negotiate with the king's will". Instructions were of two kinds: those given to envoys sent to sejmiks, and those given to envoys sent to meet the king, or any other high-ranking official⁹⁰. The instructions of the first category were composed of three parts: answers to king's proposal, proposals made to the king and requests concerning personalities or groups of people⁹¹.

On 24 March 1791 the Sejm adopted a law on sejmiks⁹², according to which voting rights were granted solely to nobles owning land, which became part of the May 3 Constitution⁹³. That is to say that the Four-Years Sejm adopted conceptions similar to Kollataj, Mably, Pyrrhus de Varille and physiocratic ideas. As for the bourgeois, the landed ones obtaining political rights, nobility was no more the only political subject in the Republic⁹⁴. Looking at the mandate, we observe that the representative one was retained (remember here that Stanisław August and his proponents strongly opposed imperative mandates)⁹⁵. Indeed article 6 clearly stands, that envoys will represent not only the sejmiks, but all the People: "Inasmuch as legislation cannot be conducted by all, and the nation to that end employs as agents its freely elected representatives, or deputies, we determine that deputies elected at the regional sejms shall, in legislation and in general needs of the nation, be considered under the present constitution as representatives of the entire nation, being the repository of the general confidence". It was a clear allusion to the British model⁹⁶.

4 Conclusion

The May 3 Constitution, contrary to United States 1787 and France 1791 Constitutions, maintained the inequality of rights between Commonwealth inhabitants. Concerning the suffrage, property conditions were applied, just like in Britain and in France, and mandate was free, like in the United-States, Britain and France. This implementation of representative mandate is without doubt one of the biggest enhancements of May 3 Constitution. Obviously, the Commonwealth clearly benefitted from its Sejm and sejmiks long parliamentary practice. It was all the more audacious and appreciable that enlightenment thinkers usually favored imperative mandates. Knowing that this kind of mandate prevails in today democracies, one has to acknowledge the far-sightedness of the Constitution framers, namely king Stanisław. Unlike revolutionary France, one has to notice there was no, « clean-sweep » (*table rase*), no renouncement of the past of the country, the conceptions of State and man were not abstract. It is true that contrary to the French Constitution, the Polish-Lithuanian one was not aimed at putting an end to a class society neither to establish a universal citizen. Hence, because they felt that the May 3 Constitution was akin to their own regimes, the American Thomas Paine and the British Edmund Burke considered it quite positively.

Indeed, with its specific constitutional feature (monarchic-republican), a binary state without equivalent, in-depth strengthened, unified and modernized institutions and administration, an exemplary educational system without match, the Commonwealth could envision its future with confidence. Indeed, the state disappeared because

⁸⁹ Lis, R. op. cit., 2015, p. 130.

⁹⁰ Butterwick-Pawlikowski Richard, op. cit., p. 699; Jurgaitis R. (atsakingasis redaktorius), Lietuvos Didžiosios Kunigaikštės seimelių instrukcijos (1788-1790), *Fontes historiae parliamentorum lithuanicorum* 1, coll., Mykolas Romeris Universitetas, Vilnius, 2015, p. 16.

⁹¹ Laszewski R., Instrukcje poselskie w drugiej połowie XVIII wieku, *Acta Universitatis Nicolai Copernici, prawo XII, nauki humanistyczno-społeczne*, zesz., 1973, 56, p. 73; Jurgaitis R. (atsakingasis redaktorius), op. cit., p. 16, 18.

⁹² 1764-1768 regulations improved Lithuanian sejmiks, which were taken as an example for Crown sejmiks. See: Zakrzewski A., Sejmiki litewskie epoki sejmu wielkiego: między tradycją a innowacją?, XVIII amžiaus studijos, 2014, t. 1, Lietuvos Didžioji Kunigaikštystė: tarp tradicijų ir naujovių (sud. R. Šmigelskytė-Stukienė), p. 54-75. About particularisms of Lithuanian sejmiks see: Stroynowski Andrzej, Problem odrębności litewskiej w obradach sejmów lat 1778-1786, *Rzeczpospolita państwem wielu narodowości i wyznań: XVI-XVIII wiek* / pod red. Tomasza Ciesielskiego i Anny Filipczak-Kocur, Wydaw. DiG, Warszawa-Opole, 2008.

⁹³ Bardach J., Konstytucja 3 maja i Zarządzenie wzajemne obojga narodów 1791 roku, Bardach J., *Konstytucja 3 Maja*, Wydawnictwo Sejmowe, Warszawa, 2001, p. 13.

⁹⁴ Rostworowski E., op. cit., p. 1436.

⁹⁵ Butterwick-Pawlikowski R., Koncepcja narodu w polskim dyskusje końca XVIII wieku. Rozważania nad Konstytucją 3 maj, *O ziemie naszą, nie waszą* (pod redakcją Łukasza Adamskiego), Centrum Polsko-Rosyjskiego Dialogu i Porozumienia, Warszawa, 2017, p. 144.

⁹⁶ Butterwick R., *Poland's Last King and English Culture: Stanisław August Poniatowski, 1732-1798*, OUP Oxford, Oxford, 1998, p. 295.

it was quickly (albeit late) and successfully reforming itself. Though neighboring countries congratulated Poles and Lithuanians for their constitutional achievements, they looked at such improvements with apprehension.

If Poland today honours the May 3, 1791 Constitution and Lithuania favours the *Reciprocal Guarantee*, does it matter? Since the Constitution and the *Reciprocal Guarantee* demonstrates the ability of Poles and Lithuanians to modernize their Commonwealth while keeping their identity, their ability to use foreign born ideas while adapting them to their own political tradition, these texts remain as an incorporeal but concrete “place of memory” to refer to when facing the ever renewing political and geopolitical challenges.

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